

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17342
[REDACTED],)	
)	DECISION
)	
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff's (staff) decision adjusting property tax reduction benefits for 2002. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed a property tax reduction application on or about April 3, 2002. She received benefits based on the income information contained in the application. During a routine audit of that application, the staff compared the listed income with state and federal income records. The staff identified \$5,858 of income the petitioner received in 2001 that had not been included in the application resulting in the petitioner's receipt of a larger benefit than should have been allowed. A deficiency notice was sent to the petitioner asking her to reimburse the state of Idaho for the overpayment and accrued interest.

Idaho Code § 63-708 provides:

63-708. RECOVERY OF ERRONEOUS CLAIMS. Within three (3) years of payment, the state tax commission may recover any erroneous or incorrect payment made under sections 63-701 through 63-710, Idaho Code, from any "claimant" as defined in section 63-701(1), Idaho Code. The deficiency determination, collection, and enforcement procedures provided by the Idaho income tax act, sections 63-3039, 63-3042, 63-3043 through 63-3064, Idaho Code, shall apply and be available to the commission for enforcement and collection under sections 63-701 through 63-710, Idaho Code, and such sections shall, for this purpose, be considered part of sections

63-701 through 63-710, Idaho Code. Wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under sections 63-701 through 63-710, Idaho Code, be described as tax relief liens and proceedings. In connection with such sections, a deficiency shall consist of any amount erroneously claimed by or paid to a claimant under sections 63-701 through 63-710, Idaho Code.

In response to the notice, the petitioner wrote that she had not claimed all of her medical expenses in her original application because she was not aware of her income status. She said she had total medical expenses of \$8,826, which is \$5,692 more than she claimed in her application. She listed them as follows:

- \$ 792 Medicare premiums
- 3,400 Co-pay for Pronto motorized wheel chair
- 1,000 Material for wheel chair ramp on my home
- 500 Labor to build the ramp

She included copies of various canceled checks with notes next to the copy of each check stating the reason for the check. They appeared to be checks to doctors, dentists, and pharmacies.

The staff wrote back to the petitioner requesting receipts or other substantiation of the additional expenses claimed and a copy of the doctors' and pharmacies' printouts showing the petitioner's out-of-pocket expenses. The staff noted that the Medicare premiums had been accounted for in the original application because the Social Security income total did not include the Medicare premiums. To deduct her Medicare payments again would amount to deducting them twice.

When the staff received another letter protesting the determination and a copy of an estimate for building a wheel chair ramp, the petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701(5) stated for tax year 2002:

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

- (a) Alimony;
- (b) Support money;
- (c) Nontaxable strike benefits;
- (d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);
- (e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;
- (f) Worker's compensation; and
- (g) The gross amount of loss of earnings insurance.

It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and/or, if applicable, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more.

"Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i).

Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a

federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W-2 and 1099. (Emphasis added.)

The Tax Appeals Specialist sent the petitioner a letter that outlined her appeal rights and, pursuant to Idaho Code, asked her to provide documentation of medical expenses. The list provided by the petitioner in her first letter was not validated by the canceled checks she provided. Nor did a copy of what appears to be a bid to build a ramp signed only by the petitioner verify the expense for the ramp.

On June 13, 2003, the Tax Appeals Specialist telephoned the petitioner. The petitioner's daughter-in-law answered the phone. She said she was handling the matter on behalf of her elderly mother-in-law. She said the petitioner has no receipts of any sort relating to the purchase of the wheel chair or construction of the ramp. She said the company that sold the petitioner the chair is now out of business and there are no canceled checks showing the expenses. She said she would contact the doctors and drug stores and ask for printouts of the petitioner's out of pocket expenses.

On June 16, 2003, the Tax Commission received a third letter that was signed by [Redacted], son. Enclosed with the letter was a money order in the amount of \$518.22 and a copy of the same checks that were sent with the protest letter. In the letter, the petitioner's son said he could not find any supporting documents and did not have time to contact "each and every office the checks sent to you represent." He said he was sending the money order because "I want no hassels [sic] and headaches."

Pursuant to Idaho Code, the staff asked for verification of the additional medical expenses that were claimed in the letters sent after the staff notified the petitioner of the error in the original application resulting in an overpayment of benefits. The petitioner was not asked to verify the \$3,134 of medical expenses claimed in the original application because the county had accepted those figures when the application was submitted. That \$3,134 figure included \$1,526 for prescription drugs and \$1,608 for supplemental health insurance premiums to provide health insurance coverage beyond Medicare.

The petitioner asks the Tax Commission to accept canceled checks as proof of out-of-pocket expenses for prescriptions and doctors' visits. However, the amount paid by check when a service is rendered is not necessarily the patient's share of payment for the services. Computer records, readily available to patients upon request, show the total amount paid by the patient as opposed to those charges that are covered by insurance for any given year.

Additionally, checks written to various drug stores do not verify purchases of prescriptions as many products can be purchased at a drug store. In addition, while there is little doubt that a wheel chair was purchased and a ramp was built, there is no evidence of the year the events took place or how much of the expense was paid out of the petitioner's funds.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of her argument, the taxpayer has failed to meet her burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The petitioner has not carried her burden of proof that the additional medical expenses she claimed after the deficiency notice was issued were her actual non-reimbursed medical expenses for 2001.

The Tax Commission upholds the staff's determination that the petitioner received more income in 2001 than was reported in her application for the 2002 property tax reduction benefits. Furthermore, the Tax Commission finds no justification for reducing that increased income to zero. Based on Idaho Code, the amount of \$518.22 received by the Tax Commission on June 16, 2003 was the correct amount to repay the overpayment.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the Notice of Deficiency Determination issued to [Redacted] by the State Tax Commission's staff on April 16, 2003 asking for reimbursement of the overpayment of property tax reduction benefits for 2002 in the amount of \$510 and interest of \$8.22 is APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2003, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]_____